

**Amendment and Clarification to RFP issued on March 11, 2009 via the DSBA list serve.
Request for Proposals to Provide Legal Counsel Related to Analysis of the American
Recovery and Reinvestment Act ("ARRA")**

I. Submission deadline

- a. The deadline to submit any clarifying or additional information with respect to proposals submitted pursuant to the prior RFP issued on March 11, 2009 (attached hereto as Appendix A) is hereby extended to **March 18, 2009 at 11:00 a.m. EST.**
- b. Any firm that did not initially submit a proposal may submit a proposal at the same time and its proposal will be considered timely.
- c. The State of Delaware (the "State") reserves the right to modify and/or cancel this solicitation at any time during the RFP process.
- d. Each proposal should include a transmittal letter that clearly identifies and explains any exceptions to the requirements of the RFP that the applicant may have taken in presenting the Proposal. The State reserves the right to deny any and all exceptions taken to the RFP requirements.
- e. The cost of preparing Proposals will be borne solely by the offerors.
- f. Proposals and any questions related to this RFP should be directed via email to:

*Robert L. Scoglietti
Director of Policy and External Affairs
Delaware Office of Management and Budget
Robert.Scoglietti@state.de.us*

II. Awarding of contract

- a. The State currently intends to award a contract(s) pursuant to this amended RFP by 6 p.m. on March 18, 2009.
- b. The State reserves the right to award all, part, or none of the work addressed in this amended RFP and may award contracts to more than one law firm if deemed appropriate and desirable.
- c. A written contract with the law firm(s) selected will be required. That contract must be approved by the Attorney General of the State of Delaware and the Governor of the State of Delaware pursuant to 29 Del. C. § 2507.
- d. Successful firms will be required to enter into the standard Delaware Department of Justice's (the "DDOJ") Outside Counsel Agreement and be subject to the DDOJ's Outside Billing Policy.

III. Scope of the Engagement

Review of the ARRA and a synopsis of the bill by major program category, with such categories to include, for example: (a) Medicaid; (b) Transportation; (c) Water and Sewer; (d) Energy; (e) Health and Human Services; (f) Housing; (g) Education; (h) Public Safety; and (i) Workforce/Labor.

- a. The Synopsis will be a comprehensive research manual in notebook format, with a hard copy and an electronic PDF version delivered to the Lt. Governor's Office, the Office of Management and Budget, and the DDOJ.

- b. An executive summary should be included with an overview of the ARRA and organized in sections by category.
- c. Each category should have an executive summary listing the federal agencies overseeing the allocation of funds and grants to be awarded.
- d. A timeline for the ARRA generally, and each category, with deadlines for the filing of applications and any other obligations imposed by the ARRA and/or subsequent agency rules or regulations.
- e. An analysis of: i) the status of the implementation, as of a date certain to be agreed upon; ii) the necessary submissions required; iii) any and all rules, regulations and guidances that have been promulgated, issued or posted by the appropriate federal agency; iv) any spending requirement dates; v) ongoing legal obligations and or compliance issues; and vi) any conflicts with State statutes or laws.
- f. An analysis of whether or not the acceptance of these funds imposes future obligations on the State.
- g. The final work product will be submitted to the State within 7 days of the execution of the agreement.
- h. The proposal shall be for a flat fee not to exceed \$60,000, including all expenses.
- i. The engagement shall include ongoing bi-weekly reports, or sooner if required by federal agencies, of any new rules and/or regulations/clarifications issued by the federal government or any of the federal agencies administering funds under the ARRA. These reports shall be included at no additional charge through October 1, 2009.

Following the completion of the work outlined above, the State may request further legal analysis on the requirements of implementation of ARRA as it pertains to the State, its departments and agencies. All such advice shall be provided to the Lt. Governor's Office, the Office of Management and Budget, and the DDOJ.

Please provide current billing rates for all attorneys to be assigned to represent the State with respect to any further legal analysis as contemplated in the preceding paragraph.

IV. Experience

In addition to the minimum qualifications listed in the previous RFP, the State requests that proposals indicate any specific expertise or knowledge generally regarding analysis of statutory and regulatory language related to the implementation of and compliance with federal programs, and the application process for federal grant monies.

The State further requests that proposals detail the firm's experience with respect to the State of Delaware and its agencies and capacity to provide state-specific advice on the disparate subjects to which the ARRA is directed.

Please also provide a brief description of any engagements within the last three years relevant to the experience addressed above.

V. Selection Criteria

The selection of the firm or firms to provide legal services will be based on an evaluation of the Proposals to determine which Proposal reflects the best value to the State in light of the specific criteria set forth below, which are set forth in descending order of importance:

- a. Demonstrated ability to perform the services referred to in the Scope of the Engagement;
- b. Experience of the firm and the firm's individual attorneys in the analysis of statutory and regulatory language, with a specific emphasis on implementation of and compliance with federal programs, and application for federal grant monies;
- c. Experience of the firm and the firm's individual attorneys with respect to the State of Delaware and capacity to provide state-specific advice on the disparate subjects to which the ARRA is directed;
- d. Experience of the firm and the individual attorneys representing and providing advice generally; and
- e. References and recommendations of other clients.

Appendix A

REQUEST FOR PROPOSALS TO PROVIDE COUNSEL TO THE STATE OF DELAWARE

The State of Delaware seeks to engage, on an expedited basis, a law firm to act as counsel in connection with the State's application for and use of funds from the federal American Recovery and Reinvestment Act. The estimated scope of work will be 240 hours to be performed by six attorneys over a one week period of time beginning at 9:00 a.m. on March 13, 2009. The final work product requested is a written handbook detailing for the State the steps needed to ensure that the state obtains the maximum possible amount of federal funding under the ARRA, and that said funds are used in a legally proper manner.

Law firms seeking this engagement must have been business for at least five years, and must agree to maintain in full force and effect during the term of the contract professional liability insurance in an aggregate amount of at least \$2 million.

Law firms seeking this engagement must demonstrate the capacity to perform the scope of services needed by the State within the indicated time frame. Law firms seeking this engagement should also specify any expertise in the area of interpretation of or compliance with federal funding statutes and regulations, and shall specify the names and bar admission years of the attorneys who will be working on this engagement if awarded.

Each law firm seeking this engagement shall identify any potential conflicts of interest that may arise if the firm is retained for the indicated purpose.

Each law firm seeking this engagement shall submit a flat-fee offer with respect to the work indicated. Said flat fee shall not exceed \$60,000, excluding out-of-pocket costs.

Law firm selection will be made based upon the following criteria:

1. Firm's ability to comply with minimum requirements outlined above.
2. Experience of attorneys who will be performing requested work.
3. Absence of conflicts or satisfactory resolution of any existing conflicts.

Submissions should be made by e-mail no later than noon, March 12, 2009 to:

Robert L. Scoglietti
Director of Policy and External Affairs
Delaware Office of Management and Budget
Robert.Scoglietti@state.de.us